

94-102



DOW, LOHNES & ALBERTSON, PLLC
ATTORNEYS AT LAW

WASHINGTON, D.C.

1200 NEW HAMPSHIRE AVENUE, N.W. • SUITE 800 • WASHINGTON, D.C. 20036-6802
TELEPHONE 202-776-2000 • FACSIMILE 202-776-2222

DOCKET FILE COPY ORIGINAL

RECEIVED

February 28, 2003

FEB 28 2003

VIA HAND DELIVERY

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Marlene H. Dortch, Esq.
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Triton PCS License Company L.L.C.
Informational Filing on Phase II E911 Compliance

Dear Ms. Dortch:

Triton PCS License Company L.L.C. ("Triton"), by its attorneys, hereby submits this letter to inform the Commission about its Phase II E911 compliance status. For the reasons described below, Triton submits that it will be in compliance with the initial Phase II deployment requirements, as modified by the *Order to Stay* and as clarified in the *Richardson Order*.¹ If, however, the Commission determines that Triton is not in compliance, it seeks a waiver of those requirements until such time as Phase II integration and testing with each requesting public safety answering point ("PSAP") is completed.

Triton's Actions to Comply with the *Order to Stay*

As described in Triton's November 1, 2002, and February 1, 2003 implementation reports, Triton has been working diligently to meet the March 1, 2003 deadline for provision of initial Phase II E911 service.² As a result of these efforts, Triton anticipates that it will have the ability to provide location information to each requesting PSAP in its coverage area on or before the deadline.

¹ Revisions to the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Phase II Compliance Deadline for Non-Nationwide CMRS Carriers, *Order to Stay*, 17 FCC Rcd 14841 (2002) (the "*Order to Stay*"); Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, *Petition of City of Richardson, Texas, Order on Reconsideration*, CC Docket No. 94-102, FCC 02-318 (rel. Nov. 26, 2002) (the "*Richardson Order*").

² See Revisions to the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Phase II Compliance Deadline for Non-Nationwide CMRS Carriers, CC Docket No. 94-102, *Triton PCS License Company L.L.C. Phase II E911 Implementation Report February 3, 2003* (filed Feb. 3, 2003); See Revisions to the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Phase II Compliance Deadline for Non-Nationwide CMRS Carriers, CC Docket No. 94-102, *Triton PCS License Company L.L.C. Phase II E911 Implementation Report November 1, 2002* (filed Nov. 1, 2002).

Actual provision of location information, however, cannot begin until Triton coordinates with each requesting PSAP and performs integration testing to ensure that the information flows properly. Triton's experience in implementing Phase II indicates that such integration testing is necessary because there can be significant variations in how PSAPs handle location information that require adjustments on the part of the carrier providing the information. *See Declaration of Norman Shaw, attached hereto, ¶ 3.*

To facilitate the integration testing and adjustment process, on February 5, 2003, Triton sent a letter asking to set dates for integration testing where testing had not already begun for those PSAPs that requested Phase II service on or before September 1, 2002.³ Some PSAPs responded to this letter, but others did not. Consequently, Triton followed up by seeking to make telephone contact with every PSAP that did not respond. *Id.*, ¶ 6. This integration testing requires resources from the MPC provider (Intrado), the PDE provider (Grayson), the ILEC and Triton. The resulting schedule must be coordinated with all of the responsible parties.

As of this writing, Triton has been able to schedule integration testing with 12 of the requesting PSAPs and is in discussion with an additional 10 PSAPs concerning integration test dates. *Id.*, ¶ 5. The remaining PSAPs have not responded to either the original letter or Triton's follow-up telephone contact. *Id.*, ¶ 6. Much integration testing has already occurred, and all of the scheduled integration testing dates have been set by mutual agreement between Triton and the affected PSAPs. Based on the integration testing that has been scheduled to date, Triton anticipates completing all integration testing by March 31. *Id.*, ¶ 7.

Compliance with the *Order to Stay*

Triton submits that these facts demonstrate that it has complied with the requirements of the *Order for Stay*. Triton is ready, willing and able to provide Phase II location information to each requesting PSAP. As described above, Triton has also taken reasonable steps to coordinate with PSAPs to schedule and complete integration testing, including Triton's letter and subsequent telephone calls to each affected PSAP.

Accordingly, in this circumstance, there are two separate reasons to conclude that Triton has complied with its initial Phase II obligations under the *Order to Stay*. First, under Section 20.18(j)(5) of the Commission's rules, PSAPs and carriers can, "establish[], by mutual consent, deadlines different from" those that otherwise would apply. 47 C.F.R. § 20.18(j)(5). Because integration testing is necessary before Phase II service can be provided, the agreements of the affected PSAPs to set integration testing dates after March 1 constitute consent under that rule. In addition, as all PSAPs that requested integration testing and implementation prior to March 1 were accommodated, even those PSAPs that have not set integration testing dates should be treated as having consented to a post-March 1 start date. A PSAP that has not responded to

³ *Id.*, ¶ 4. Triton did not send letters to PSAPs in communities where testing already had started. *Id.*

Triton following a specific request from Triton to set an integration test date also should be treated as having consented to a delay.⁴

Second, to the extent that the Commission were to determine that any of the PSAPs that did not respond to Triton's letter and phone calls had not consented to an extension within the meaning of Section 20.18(j)(5), the Commission should conclude that Triton has complied with its obligations under the principles adopted in the *Richardson Order*. While the *Richardson Order* does not address final testing of Phase II service, the underlying principle of the order is that wireless providers will not be held responsible for missing deadlines if the wireless provider is ready and the PSAP is not. In this case, Triton will be able to provide location information to all of the PSAPs by March 1, but it cannot do so without working with the PSAP. If a PSAP did not respond to Triton's request to set an integration test date, Triton's obligation to actually provide location data to the PSAP should be tolled just as it is if a PSAP fails to order and install necessary equipment. In this regard, Triton emphasizes that it is ready, willing and able to provide location information to all PSAPs that were subject to the March 1 deadline, but it simply cannot do so until the PSAPs respond. Under these facts and the principles of the *Richardson Order*, the Commission should conclude that Triton has met its obligations.

Conditional Request for Waiver

For the reasons described above, Triton submits that it will be in compliance with the requirements of the Commission's rules as modified by the *Order to Stay*. However, to the extent the Commission concludes that its rules require Triton to provide Phase II E911 service to a PSAP even when the PSAP did not seek to complete integration testing prior to March 1 or respond to Triton's letter requesting an integration test date, Triton requests a waiver of the *Order to Stay* until such time as integration testing is completed for each of the PSAPs that requested Phase II service prior to September 1, 2002.

Under the Commission's rules, waivers are granted "if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule."⁵ In this case, Triton's compliance with the rule is dependent on the actions of third parties – the PSAPs – that also are among the beneficiaries of the rule. If a PSAP concludes that obtaining E911 Phase II service from Triton by the March 1 deadline is not necessary, Triton is not in a position to alter the PSAP's priorities.⁶ Moreover, it is a better use of Triton's resources to concentrate on the PSAPs that sought to test and implement before March 1 and on the PSAPs that set integration test dates in response to Triton's request. In these circumstances "deviation from the rule" causes no harm, because Phase II location information

⁴ Triton is willing to consent to these delays, as it has no reason to attempt to provide Phase II service when a PSAP, for whatever reason, does not choose to implement it.

⁵ Federal-State Joint Board on Universal Service, Universal Service Support for Eligible Schools and Libraries, Year 3 Filing Window, *Order*, 15 FCC Rcd 13932, 13934 (2000); see also 47 C.F.R. § 1.3 (waivers granted "for good cause shown").

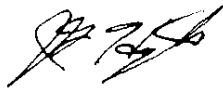
⁶ For example, a PSAP may choose to integrate with larger carriers before turning to Triton.

Marlene H. Dortch, Esq.
February 28, 2003
Page 4

cannot be provided until the PSAP is ready to integrate with Triton. In addition, the public interest is served by ensuring that those PSAPs that are ready to integrate with Triton obtain Phase II E911 service under the schedules that they have agreed upon. Consequently, to the extent that the Commission concludes that Triton is not in compliance with the initial Phase II requirements, a waiver should be granted until such time as integration testing is complete with the PSAPs that otherwise would be subject to the March 1 deadline.

Please inform us if any questions should arise in connection with this request.

Respectfully submitted,

A handwritten signature in black ink, appearing to be a combination of initials and a name, possibly "JG" followed by a stylized name.

J.G. Harrington
Christina H. Burrow

Counsel to Triton PCS License Company, L.L.C.

JGH/CB/vl
Attachment

cc: As per attached service list

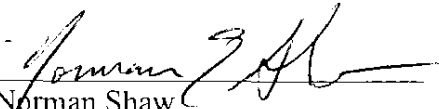
DECLARATION OF NORMAN SHAW

1. My name is Norman Shaw. I am Vice President of New Product Development of Triton PCS, Inc., the parent company of Triton PCS License Company, L.L.C. ("Triton"). In that position, I am responsible for, among other things, Triton's compliance with the FCC's E911 Phase II rules. The statements made in this declaration are based on my personal knowledge.
2. As described in Triton's November 1, 2002, and February 1, 2003, implementation reports, Triton has been working diligently to meet the March 1, 2003 deadline for provision of initial Phase II E911 service. Based on the progress Triton has made to date, I anticipate that Triton will be able to provide location information to all of the public safety answering points ("PSAPs") that are subject to the March 1 deadline on or before that date.
3. As the Commission has recognized in its *Richardson Order*, a wireless provider cannot, provide location information in a vacuum, and must obtain cooperation from the PSAP. In addition to ensuring that it has the equipment and other services necessary to use Phase II location information, a PSAP must actually establish communication with the wireless provider and confirm that the information will be received accurately and in an appropriate format. Thus, the PSAP and the wireless provider must cooperate to test the provision of E911 location information and make any necessary adjustments. This is the last step in the provision of Phase II information to PSAPs, but it is critical. Indeed, Triton's experience shows that significant adjustments often are necessary because PSAPs do not always implement Phase II in the same way.
4. To facilitate the integration testing process, on February 5, 2003 Triton sent a letter over my signature to all PSAPs subject to the March 1 deadline where integration testing had not yet started. This letter requested that the PSAP work with Triton to set a date for integration testing of the new Phase II capabilities. The PSAPs that did not receive the letter already were involved in Triton's initial integration tests of its Phase II implementation.
5. Many PSAPs responded to the letter. Triton has worked with each to set integration test dates that are convenient for the PSAP. In 12 cases those dates have been set, and in 10 cases, Triton and the PSAP continue to discuss mutually acceptable dates. All PSAPs that requested implementation testing and implementation prior to March 1, 2003 were accommodated.
6. Not all PSAPs responded to Triton's initial letter. Triton therefore initiated separate contacts with these PSAPs by telephone. Although Triton has not set implementation test dates with all of these PSAPs at this time, it has called its contact at each of the non-responding PSAPs and will continue to pursue discussions with these PSAPs until implementation testing dates are set.
7. At this time, Triton anticipates completing all implementation testing with the PSAPs subject to the March 1 deadline by March 31, 2003.

DECLARATION OF NORMAN SHAW

I declare under penalty of perjury that the foregoing is true and correct.

Dated: February 27, 2003


Norman Shaw

CERTIFICATE OF SERVICE

I, Vicki Lynne Lytle, do hereby certify that on this 28th day of February, 2003, a copy of the foregoing Informational Filing of Triton PCS License Company L.L.C. was served by hand delivery to the following:

John Muleta
Chief
Wireless Telecommunications Bureau
Federal Communications Commission
445 12th Street, SW, Room 3-C252
Washington, DC 20554

Eugenie Barton
Policy Division
Wireless Telecommunications Bureau
Federal Communications Commission
445 12th Street, SW, Room 8-B458
Washington, DC 20554


Vicki Lynne Lytle